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Source:

Colorado Statutes/Colorado Revised Statutes /TITLE 32 SPECIAL DISTRICTS/SPECIAL DISTRICT ACT/ARTICLE 1 SPECIAL DISTRICT PROVISIONS/PART 11 FINANCIAL POWERS/32-1-1101. Common financial powers.

32-1-1101. Common financial powers.

(1) For and on behalf of the special district, the board has the following powers:

(a) To levy and collect ad valorem taxes on and against all taxable property within the special district, which shall not be limited except as provided in section [39-10-111](#) (11), C.R.S., and in part 3 of article [1](#) of title [29](#), C.R.S. Any election on the question of an increased levy pursuant to section [29-1-302](#), C.R.S., shall be conducted as a special election in accordance with articles 1 to 13 of title [1](#), C.R.S.

(b) To levy taxes and collect revenue, whenever any indebtedness has been incurred by a special district, for the purpose of creating one or more reserve funds in such amounts as the board may determine, which may be used to meet the obligations of the special district for bond interest repayment and for maintenance and operating charges and depreciation and to provide extensions of and replacements and improvements to the facilities and property of the special district;

(c) To issue negotiable coupon bonds of the special district. Bonds shall bear interest at a rate or rates such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable semiannually, and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, such bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. Said bonds shall be executed in the name of and on behalf of the district and signed by the president with the seal of the district affixed thereto and attested by the secretary. Said bonds shall be in such denominations as the board shall determine, and the bonds and coupons thereto attached shall be payable to bearer. Interest coupons shall bear the original or facsimile signature of the president.

(d) To issue revenue bonds authorized by action of the board without the approval of the eligible electors of the special district. The revenue bonds shall be issued in the manner provided in part 4 of article [35](#) of title [31](#), C.R.S., for the issuance of revenue bonds by municipalities; except that the revenue bonds may be sold in one or more series at par or below or above par at public or private sale, in such manner and for such price as the board, in its discretion, shall determine. The revenue bonds and interest coupons, if any, appurtenant thereto shall never constitute the debt or indebtedness of the special district within the meaning of any provision or limitation of the laws of Colorado or the state constitution and shall not constitute nor give rise to a pecuniary liability of the special district or charge against its general credit or taxing powers. The revenue bonds

and the income therefrom are exempt from taxation, except inheritance, estate, and transfer taxes.

(e) In addition to any other means provided by law, to elect, by resolution, at a public meeting held after receipt of notice by the affected parties, including the property owner, to have certain delinquent fees, rates, tolls, penalties, charges, or assessments made or levied solely for water, sewer, or water and sewer services, certified to the treasurer of the county to be collected and paid over by the treasurer of the county in the same manner as taxes are authorized to be collected and paid over pursuant to section [39-10-107](#), C.R.S. The governing body of said special district shall pay to the county in which the affected property of the special district is located, at least once a year, an amount which shall be just and reasonable compensation for the extra labor imposed by this paragraph (e) and an amount for the special district's proportion of the expense of advertising the sale of lands for said delinquent fees, rates, tolls, penalties, charges, or assessments in each year, said amounts to be certified to the governing body of the special district by the county treasurer. Any such fee, rate, toll, penalty, charge, or assessment shall total at least one hundred fifty dollars per account and shall be at least six months delinquent. The treasurer of the county is also authorized to charge and retain a penalty at the rate of thirty percent, or thirty dollars, whichever is greater, on the delinquent sum due and owing to defray the costs of collection.

(f) (I) To divide the special district into one or more areas consistent with the services, programs, and facilities to be furnished therein. However, any facility operated by the special district within such area may be used by any resident of the special district for the same fee charged to persons residing within such area. Whenever the board divides the special district into one or more areas pursuant to this subparagraph (I), the board shall provide notification of such action to the board of county commissioners of each county that has territory included within the district and the governing body of any municipality that has adopted a resolution of approval of the district pursuant to section [32-1-204.5](#) or 32-1-204.7. Each board of county commissioners and municipal governing body that is entitled to such notification may elect, within thirty days after such notification, to treat the action as a material modification of the district service plan in accordance with section [32-1-207](#) (2).

(II) Any area created pursuant to this paragraph (f) shall be a subdistrict of the special district. A subdistrict shall be an independent quasi-municipal corporation, shall act pursuant to the provisions of this article, and shall possess all of the rights, privileges, and immunities of the special district. The subdistrict shall be subject to the service plan of the special district. The general assembly hereby finds and declares that any such division of the special district into one or more subdistricts shall provide for the fair and equitable taxation within the territorial limits of the authority levying the tax in conformity with the requirements of section 3 of article X of the state constitution.

(III) The board of the special district shall constitute ex officio the board of directors of the subdistrict. The presiding officer of the board shall be ex officio the presiding officer of the subdistrict, the secretary of the board shall be ex officio the secretary of the

subdistrict, and the treasurer of the board shall be ex officio the treasurer of the subdistrict. For the purposes of complying with the requirements of subsection (6) of this section and article 59 of title 11, C.R.S., the debt of the subdistrict shall be treated separately from the debt of the special district and shall not be treated as debt of the special district. The total debt of the special district and all subdistricts shall not exceed any debt limits specified in the service plan of the special district.

(1.5) (a) The board shall make any determination specified in paragraph (f) of subsection (1) of this section by resolution adopted at a regular or special meeting of the board after publication of notice of the purpose of the public meeting and the place, time, and date of such meeting.

(b) No resolution dividing the special district into one or more areas shall be adopted by the board pursuant to paragraph (a) of this subsection (1.5) if a petition objecting to such division is signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total valuation for assessment of all taxable real and personal property within the proposed area boundaries, and is filed with the special district no later than five days prior to the public meeting. However, the board may change the geographical boundaries of such area at the public meeting.

(c) Except as otherwise provided in this paragraph (c), no single parcel of land having a valuation for assessment constituting twenty-five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner or owners of such real property. No single parcel of land owned by a corporate entity and having a valuation for assessment constituting five percent or more of the total valuation of assessment of all real property within the boundaries of an area in a special district shall be included in such area without the written consent of the owner of such real property. If, contrary to the provisions of this paragraph (c), such parcel of real property is included within the boundaries of such area, the owner or owners of such real property shall be entitled to petition the board to have such real property excluded from the area boundaries free and clear of any contract, obligation, debt, lien, or charge for which the owner or owners may otherwise be liable due to the inclusion of such real property in the area.

(d) If taxes are to be levied or debt is to be created within an area of the special district, the board shall submit a ballot issue approving such taxes or debt to the eligible electors within such area at a regular special district election or at a special election held on the Tuesday after the first Monday of November in an even-numbered year or the first Tuesday of November in an odd-numbered year conducted in accordance with the provisions of this article and section 20 of article X of the state constitution. In addition to any other matters, the ballot issue shall provide that the tax to be levied for services, programs, and facilities within such area is in addition to any other taxes imposed by the special district.

(e) Nothing in this subsection (1.5) or paragraph (f) of subsection (1) of this section shall repeal or affect any other law or any part thereof as it is the intent of the general

assembly that this subsection (1.5) and paragraph (f) of subsection (1) of this section shall provide a separate but not an exclusive method of accomplishing the objectives of the general assembly.

(f) Nothing in this subsection (1.5) or in paragraph (f) of subsection (1) of this section shall impose any requirement contained in House Bill 02-1465, as enacted at the second regular session of the sixty-third general assembly, upon any area that was in existence prior to October 1, 2002; except that a district may, by resolution, elect to apply any of said requirements to such area.

(2) Whenever the board determines, by resolution, that the interest of the special district and the public interest or necessity demand the acquisition, construction, installation, or completion of any works or other improvements or facilities or the making of any contract with the United States or other persons or corporations to carry out the objects or purposes of such district, requiring the creation of a general obligation indebtedness exceeding one and one-half percent of the valuation for assessment of the taxable property in the special district, the board shall order the submission of the proposition of issuing general obligation bonds or creating other general obligation indebtedness, except the issuing of revenue bonds, at an election held for that purpose. The resolution shall also fix the date upon which the election will be held. The election shall be held and conducted as provided in articles 1 to 13 of title 1, C.R.S. Any election may be held separately or may be held jointly or concurrently with any other election authorized by this article. If the issuance of general obligation bonds is approved at an election held pursuant to this subsection (2), the board shall be authorized to issue such bonds for a period not to exceed the later of five years following the date of the election or, subject to the provisions of section 32-1-1101.5, for a period not to exceed twenty years following the date of the election if the issuance of such bonds is in material compliance with the financial plan set forth in the service plan, as that plan is amended from time to time, or in material compliance with the statement of purposes of the special district. After the specified period has expired, the board shall not be authorized to issue bonds which were authorized but not issued after the initial election unless the issuance is approved at a subsequent election; except that nothing in this subsection (2) shall be construed as limiting the board's power to issue refunding bonds in accordance with statutory requirements.

(3) (a) The declaration of public interest or necessity required and the provision for the holding of such an election may be included within the same resolution, which resolution, in addition to such declaration of public interest or necessity, shall recite:

(I) The objects and purposes for which the indebtedness is proposed to be incurred;

(II) The estimated cost of the works or improvements, as the case may be;

(III) How much, if any, of said estimated cost is to be defrayed out of any state or federal grant;

(IV) The amount of principal of the indebtedness to be incurred therefor; and

(V) The maximum net effective interest rate to be paid on such indebtedness.

(b) Whenever the board determines that the district should incur indebtedness in an amount which does not require approval by the eligible electors of the special district under subsection (2) of this section, the board shall establish the maximum net effective interest rate prior to the time the debt is incurred or contracted.

(4) If any proposition is approved at an election provided for in subsection (2) of this section, the board shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract, or issue and sell such bonds of the special district, as the case may be, all for the purposes and objects provided for in the proposition submitted and in the resolution therefor, in the amount so provided, at a price or prices and a rate or rates of interest such that the maximum net effective interest rate recited in such resolution is not exceeded. Except as provided in section [32-1-106](#) (2), submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same or other propositions at subsequent elections called for such purpose.

(5) Whenever any special district organized pursuant to this article has moneys on hand which are not then needed in the conduct of its affairs, the special district may deposit such moneys in any state bank, national bank, or state or federal savings and loan association in Colorado in accordance with state law. For the purpose of making such deposits, the board may appoint, by written resolution, one or more persons to act as custodians of the special district's moneys, and such persons shall give surety bonds in such amount and form and for such purposes as the board may require. Subject to the requirements of part 7 of article [75](#) of title [24](#), C.R.S., the special district's moneys may be pooled for investment with the moneys of other local government entities.

(6) (a) The total principal amount of general obligation debt of a special district issued pursuant to subsection (2) of this section, which debt is issued on or after July 1, 1991, shall not at the time of issuance exceed the greater of two million dollars or fifty percent of the valuation for assessment of the taxable property in the special district, as certified by the assessor, except for debt which is:

(I) Rated in one of the four highest investment grade rating categories by one or more nationally recognized organizations which regularly rate such obligations;

(II) Determined by the board of any special district in which infrastructure is in place to be necessary to construct or otherwise provide additional improvements specifically ordered by a federal or state regulatory agency to bring the district into compliance with applicable federal or state laws or regulations for the protection of the public health or the environment if the proceeds raised as a result of such issue are limited solely to the direct and indirect costs of the construction or improvements mandated and are used solely for those purposes;

(III) Secured as to the payment of the principal and interest on the debt by a letter of credit, line of credit, or other credit enhancement, any of which must be irrevocable and unconditional, issued by a depository institution:

(A) With a net worth of not less than ten million dollars in excess of the obligation created by the issuance of the letter of credit, line of credit, or other credit enhancement;

(B) With the minimum regulatory capital as defined by the primary regulator of such depository institution to meet such obligation; and

(C) Where the obligation does not exceed ten percent of the total capital and surplus of the depository institution, as those terms are defined by the primary regulator of such depository institution; or

(IV) Issued to financial institutions or institutional investors.

(b) Nothing in this title shall prohibit a special district from issuing general obligation debt or other obligations which are either payable from a limited debt service mill levy, which mill levy shall not exceed fifty mills, or which are refundings or restructurings of outstanding obligations, or which are obligations issued pursuant to part 14 of this article.

Source: **L. 81:** Entire article R&RE, p. 1602, § 1, effective July 1. **L. 83:** (5) amended, p. 1010, § 4, effective March 29. **L. 86:** (1)(a)(II) repealed, p. 1069, § 2, effective March 26; (1)(a) amended, p. 1027, § 7, effective January 1, 1987. **L. 89:** (1)(e) added, p. 1316, § 1, effective April 23. **L. 91:** (2) amended and (6) added, p. 790, § 19, effective June 4. **L. 92:** (1)(a), (1)(d), (2), and (3)(b) amended, p. 889, § 129, effective January 1, 1993. **L. 94:** (2) amended, p. 1196, § 102, effective July 1. **L. 95:** (1)(a) amended, p. 128, § 1, effective April 7. **L. 2000:** (1)(f) and (1.5) added, pp. 456, 457, §§ 1, 2, effective August 2. **L. 2002:** (1)(f)(II) and (1)(f)(III) R&RE, (1.5)(b) and (1.5)(d) amended, and (1.5)(f) added, pp. 1730, 1731, §§ 1, 2, effective October 1. **L. 2003:** (1)(f)(I) amended, p. 1317, § 4, effective August 6.

Editor's note: This section was contained in an article that was repealed and reenacted in 1981. Provisions of this section, as it existed in 1981, were contained in several sections in 1980, the year prior to the repeal and reenactment of this article. For a detailed comparison, see the table located in the back of the index.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

For the constitutionality of former § 32-4-124 under § 25 of art. II, Colo. Const., see *Perl-Mack Civic Ass'n v. Bd. of Dirs. of Baker Metropolitan Dist.*, 140 Colo. 371, 344 P.2d 685 (1959).

Test as to whether delay in issuance of bonds is fatal is reasonableness, prudence, or necessity. Where bonds are authorized by an election several years prior to their issuance, delay in their issuance is not fatal, the applicable test being whether the delay is reasonable, prudent, or

necessary. *Perl-Mack Civic Ass'n v. Bd. of Dirs. of Baker Metropolitan & San. Dist.*, 140 Colo. 371, 344 P.2d 685 (1959).

Debt service decrease not to prevent special election on tax levy. Any decrease in a district's debt service is a separate matter and cannot be offset against the increase in general revenue so as to reduce the percentage increase for purposes of determining whether a special election is required for a proposed tax levy. *Stegon v. Pueblo W. Metropolitan Dist.*, 198 Colo. 128, 596 P.2d 1206 (1979).

Applied in *Lujan v. Colo. State Bd. of Educ.*, 649 P.2d 1005 (Colo. 1982).

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